KAREN P. HEWITT
United States Attorney
ALESSANDRA P. SERANO
Assistant U.S. Attorney
California Bar No. 204796
Federal Office Building
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: (619) 557-7084

Attorneys for Plaintiff-Respondent
United States of America

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

| | |
|---|---|
| JONATHAN HOUSE,<br>Defendant-Petitioner,<br>v.<br>UNITED STATES OF AMERICA,<br>Plaintiff-Respondent. | No. 07CV2149-W<br>No. 06CR2332-W<br><br>GOVERNMENT'S MOTION TO GRANT PETITIONER 30 DAYS TO CONSIDER WITHDRAWING PETITION FOR WRIT OF HABEAS CORPUS |

Respondent, United States of America, by and through its counsel, KAREN P. HEWITT, United States Attorney, and Alessandra P. Serano, Assistant U.S. Attorney, moves this Court to grant Jonathan House ("Petitioner"), by and through his counsel of record, Karen L. Landau, Esq., 30 days to consider withdrawing his petition for a writ of habeas corpus in the above-captioned case. This motion is made for the following reasons:

1. On or about November 20, 2006, Petitioner signed a plea agreement agreeing to plead guilty to a single count information of violating Title 18, United States Code, Section 2252(a)(4)(B), possession of child pornography.

2. As part of that plea agreement, Petitioner waived the right to appeal or collaterally attack the plea, conviction or sentence.

3. In exchange for Petitioner's plea, the Government agreed not to prosecute Petitioner under Title 18, United States Code, Section 2252(a)(2), receipt of child pornography.

4. On November 27, 2006, Petitioner's guilty plea was accepted by this Court.

5. On May 31, 2007, Petitioner was sentenced, in accordance with the plea agreement, to 63 months in custody, 15 months less than what was contemplated by the Government's recommendation pursuant to the plea agreement.

6. Despite Petitioner's waiver of appeal and collateral attack on the sentence, Petitioner filed a Petition for Writ of Habeas Corpus under Title 28, United States Code, Section 2255 ("Petition") on October 29, 2007.

7. The Government believes that, in filing his Petition, Petitioner breached the terms of his plea agreement.

8. In light of Petitioner's breach, the Government intends to seek an indictment of Petitioner under Title 18, United States Code, Section 2252(a)(2), receipt of child pornography. Conviction on this charge would expose Petitioner to a maximum sentence of 20 years in custody and a mandatory minimum of 5 years in custody for each count. The Government calculates that, under the advisory United States Sentencing Guidelines ("Guidelines"), Petitioner would be subject to the following Guidelines calculations at sentencing:

| | |
|---|---|
| Base Offense Level [USSG § 2G2.2(a)(2)] | 22 |

| | |
|---|---|
| Adjustment for images of minors under 12 years [USSG § 2G2.2(b)(2)] | +2 |
| Adjustment for sadistic images [[USSG § 2G2.2(b)(4)] | +4 |
| Adjustment for use of computer [USSG § 2G2.2(b)(6)] | +2 |
| Adjustment for number of images [USSG § 2G2.2(b)(7)(D)] | +5 |
| Adjusted Offense Level | 35 |
| Criminal History Category | I |
| Resulting Guidelines Range | 168-210 months |

9. Considering the potentially severe consequences of Petitioner's breach, the Government requests that this Court grant Petitioner 30 days to have the opportunity to withdraw his Petition and, therefore, remedy this breach.

10. At the end of that 30 day period, if Petitioner has not withdrawn his Petition, the Government requests that this Court grant the Government two weeks from that date to respond on the merits of the Petition. The Government, at that time, will also seek an indictment against Petitioner for violation of Title 18, United States Code, Section 2252(a)(2).

DATED: January 3, 2008

Respectfully submitted,

KAREN P. HEWITT
United States Attorney

s/ Alessandra P. Serano

ALESSANDRA P. SERANO
Assistant U.S. Attorney

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

| | |
|---|---|
| JONATHAN HOUSE,<br>Defendant-Petitioner,<br>v.<br>UNITED STATES OF AMERICA,<br>Plaintiff-Respondent. | No. 07CV2149-W<br>No. 06CR2332-W<br>CERTIFICATE OF SERVICE |

IT IS HEREBY CERTIFIED THAT:

I, ALESSANDRA P. SERANO, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of United States' Motion to Grant Petitioner 30 Days to Withdraw Petition for Habeas Corpus on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Karen L. Landau, Esq.
2626 Harrison Street
Oakland, CA 94612

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 3, 2008.

s/Alessandra P. Serano
ALESSANDRA P. SERANO